

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**December 10, 2012**

Those present at 7:00 pm:

Presiding: Mayor Vance A. Funk, III  
District 1, Mark Morehead  
District 2, Jerry Clifton  
District 3, Doug Tuttle  
District 4, David J. Athey  
District 5, Luke Chapman  
District 6, A. Stuart Markham

Staff Members: City Manager Carol Houck  
City Solicitor Bruce Herron  
Deputy City Secretary Alice Van Veen  
Electric Director Rick Vitelli  
PW & Water Resources Director Roy Simonson  
Assistant to the City Manager Charles Zusag  
Interim Finance Director Wilma Garriz

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1. The regular Council meeting began with a moment of silent meditation and pledge to the flag.

2. MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT ITEM 8-A-1, RESOLUTION COMMENDING ALICE LIECHTY, ELECTION BOARD MEMBER, BE MOVED TO ITEM 3 AND THAT ITEMS 3-A, RECOMMENDATION TO AMEND THE INVESTMENT POLICY STATEMENT FOR THE CITY'S PENSION PLAN AND 6-C, SECOND READING – BILL 12-32, BE REMOVED FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

(Mr. Athey recommended a later discussion regarding the removal of Item 6-C, Bill No. 12-32.)

3. **8-A-1. RESOLUTION NO. 12-\_\_:** **COMMENDING ALICE LIECHTY, ELECTION BOARD MEMBER**

**01:00**

The resolution was read by Mr. Clifton and unanimously endorsed by Council recognizing Ms. Liechty for her 17 years of service to the Newark Election Board.

**(RESOLUTION NO. 12-X)**

4. **PRESENTATION OF PROCLAMATION TO KEAIRRA STEVENS**

**03:31**

Mr. Clifton read the proclamation commending 7-year old Keaira Stevens for helping to save her mother's life by making an emergency medical call to 911. Ms. Stevens was present to receive the proclamation that also recognized her as Honorary Mayor.

**5. 1. ITEMS NOT ON PUBLISHED AGENDA**

**A. Public**

**05:28**

Joshua Cogliano expressed concerns regarding Bill 12-32, Section 302.9 *Defacement of Property*. He felt paragraph d which addressed the act of causing graffiti was the only part that made sense and urged Council to stop passing bad legislation.

**6.** Eric Boye spoke about individual freedom and government interference; Bill 12-32 – specifically as it pertained to graffiti, right of entry, the adoption of international codes; asked Council to eliminate discrimination against student housing; and suggested rethinking the POOH program.

**7.** John Kowalko, State Representative and Newark resident, expressed his appreciation to Ms. Houck and staff for the professional manner in which the City communicated with the public about the Smart Meter program. He also encouraged the City to move forward with the solar RFP because he believed alternative green energy was an important investment for the City to make.

**8.** David Robertson, a Newark resident, felt the taxpayer's money should be used toward strengthening the community and that the government should be committed to making affordable housing available to permanent residents in the City. He hoped there would be more funding allocated for the POOH program, that it be more effectively targeted for specific streets, and suggested Council think about enlarging the program.

**9. 1-B-1. UNIVERSITY**

Mark Brainard extended happy holiday wishes to all.

**10. 1-B-2. STUDENT BODY REPRESENTATIVE:**

Graduate Student Senate representative Jessica Graham reported finals week was coming up and had no additional comments.

**11. 1-C. COUNCIL MEMBERS**

**25:36**

**Mr. Clifton**

- Mr. Clifton applauded Winterfest which had a great turnout.
- Mr. Clifton discussed his attendance at the National League of Cities conference in Boston and whether Newark should continue to participate in the organization and the Delaware League of Local Governments in light of the City's dues in the NLC doubling to \$7,000. He was disappointed in the conference and the lack of representation received by Newark from the organization and pointed out that the cost to attend the conference as a non-NLC member would only be an additional \$100.

**12. Mr. Morehead**

- Mr. Morehead wished everyone happy and safe holidays. Regarding NLC membership he did not see the sense in paying the money up front given the small additional cost for non members.

**13. Mr. Markham**

- Regarding membership in the NLC Mr. Markham was not impressed by the conference's offerings and felt the City was taking ideas to the organization while not receiving much benefit.

- Mr. Markham thought the Smart Meter open house was a good idea and encouraged similar public forums in the future.
- Mr. Markham said he enjoyed Winterfest which had a record number of runners.

#### **14. Mr. Tuttle**

- Mr. Tuttle wished happy holidays to all.
- Regarding membership in the NLC, Mr. Tuttle felt that given the current increase the City should not pay the annual dues but should stay engaged through attendance at the annual conferences at the non-member rate. He reported that the NLC recently appointed a new Executive Director, so there might be some new vibrancy in the organization.

#### **15. Mr. Athey**

- Mr. Athey felt Winterfest was a great way to kick off the holiday season and wished happy holidays to all.
- Mr. Athey congratulated Ms. Houck for the Smart Meter workshop and heard positive comments from those who attended.
- Regarding the City's participation in the NLC, Mr. Athey agreed with Mr. Tuttle's recommendation to keep an eye on changes in the organization. He thought the City should definitely maintain a presence in the Delaware League.
- Mr. Athey referenced comments made by Mr. Boye regarding the POOH program and explained the funds were considered a loan to be paid back to the City prior to a property being sold. Mr. Funk added that the amount of funding available per property was \$30,000.
- Regarding Bill No. 12-32 (adoption of the 2012 International Property Maintenance Code) which was removed from the agenda, Mr. Athey said while the bill might not be perfect, he did not want it to be tabled indefinitely.

Ms. Houck reported that she and Ms. Feeney Roser reached out to the landlord's association on several occasions and thought they were ready to reach an agreement but then learned the landlords would not support the bill. She did not feel any more staff time should be wasted trying to work with a minority group who did not necessarily represent the landlords. A discussion ensued regarding the possibility of forming some type of task force or committee to work on landlord issues.

Mr. Chapman wanted to separate the two issues based on the log jam in progressing some version of Bill No. 12-32. While he did not oppose the idea of a third party committee, he did not think it should be a specific task force for this particular issue.

Mr. Markham said there was more than the landlord side to this – there were residents with issues they wanted resolved. He believed there was a need for some type of mediation process between landlords and residents who were dealing with problems regarding student rental housing.

Mr. Morehead reported that he approached Ms. Houck and Ms. Feeney Roser with specific technical concerns about Bill 12-32 and requested that the bill be pulled from the agenda. He agreed with Mr. Chapman's comments about separating the bill from landlord issues and wanted to move it forward as good legislation.

Mr. Tuttle also agreed with Mr. Chapman and wanted a bill Council could consider and get on the books. He pointed out that one proposed change was to adjust the late fees so they were more rationale.

Mr. Chapman recommended bringing Bill No. 12-32 back in January with a recommendation from Ms. Houck on what a committee would look like. Ms. Houck said Bill No. 12-32 would be brought back to Council after looking further at technical issues.

**16. Mr. Chapman**

- Mr. Chapman deferred to other Council members regarding the NLC and thought Mr. Tuttle's suggestion was a good idea.
- Mr. Chapman extended his thanks to residents of District 5 for electing him to Council, and he looked forward to representing them in the year ahead.
- Mr. Chapman offered thanks and congratulations to Board of Elections member Alice Liechty who was instrumental in helping him through the election process.
- Mr. Chapman thanked Ms. Houck, Honeywell, vendors and staff for last week's open house which had a great turnout. He thought it was a good way of governing and suggested employing similar type forums in the future.

**17. Mr. Funk**

- Mr. Funk noted that the POOH program was very instrumental in stabilizing neighborhoods and that the loan amount had been amended from \$50,000 to \$30,000. They were secured by a second lien on the house and on average were paid back after eight years. He pointed out that the City has never lost money on the program.

**18. 2. APPROVAL OF CONSENT AGENDA**

**53:18**

- A. Approval of Regular Council Meeting Minutes – November 26, 2012
- B. Receipt of Planning Commission Minutes – November 7, 2012
- C. ***First Reading – Bill 12-42 – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Establishing an Adult Community 80/20 District – Second Reading – January 14, 2013***
- D. ***First Reading – Bill 12-43 – An Ordinance Amending Chapter 7, Building, Section 7-1 (f), Code of the City of Newark, Delaware, By Expanding its Application to Delinquencies in the Payment of Monies Owed to the City Regarding Matters Unrelated to the Property at Issue – Second Reading – January 14, 2013***

Ms. Van Veen read the Consent Agenda in its entirety.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE CONSENT AGENDA BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

**19. 3. ITEMS NOT FINISHED AT PREVIOUS MEETING: *None***

**20. 4. FINANCIAL STATEMENT: *None***

**21. 5. RECOMMENDATIONS ON CONTRACTS & BIDS:**

A. Guaranteed Performance Contract – Smart Meter Project and its Financing

54:25

Michelle Peterson from Honeywell provided a PowerPoint presentation detailing the Smart Meter project overview. The presentation also included Honeywell's approach, why Honeywell, talked about the first project they successfully completed with the City, delved into second phase (Smart Meter project), talked about industry partners who would help deliver the project for the City, took a look at the new thin mesh wireless system and concluded with project results and benefits.

Project Overview – Honeywell worked for the City since 2009 when stimulus funding became available from the Federal government. They began working on energy and environmental solution projects and realized there was a need for the City to implement more effective and accurate meter and water and electrical readings. They knew the City, as a utility, also wanted to provide customers with up to date information, insure timely billing and have the ability to detect and stop leaks. Other areas addressed included improving outage and response times and improving public safety by adding cameras and laptops and implementing a wireless network that would provide savings and efficiency opportunities.

Project Approach – An investment grade audit began on March 12, and over 290 water meters were tested.

As a result of the Phase I project, Honeywell reduced the annual electric cost by \$57,000 a year with a self-funded guaranteed program. This was the same type program recommended for the Smart Meter project. The Phase I project was completed.

Steve Desteffano, Project Manager for Honeywell, discussed industry partners. Elster was the electric meter technology which would be the end device at the residence or business. Tropos was the Wi-Fi thin mesh technology that was chosen and was proved to be reliable. PMI was the installation partner to replace the electric and water meters. The final partner was Northstar Harris which was currently a City vendor. This was expanding on their technology as the system grew with the additional enhancement of a Web portal that provided data the consumer could retrieve. This would be a more efficient system for water and electric meter readings, and water would be billed monthly. Organizational efficiencies would be realized with some mobile units deployed that would allow what used to be a paper process to be done live in the field. The customer website with up to date utility information (a web portal) would offer increased leak detection that would flag a potential problem at a location. Outage management would benefit the Electric Department with regard to storms where they could see live data and use it as a tool to be more responsive.

Mr. Clifton questioned the potential for damage and weather interference to the pole mounted radios. Mr. Desteffano said the radios utilized a self-healing network so if one radio went out the devices would start to find the best next available radio for a response. Mr. Clifton asked if there was a mechanism by which someone that did not have internet access could track their consumption. Mr. Desteffano replied that there was a device available to go in a home and make use of the technology to get to their information.

Mr. Morehead asked what the reporting time was on the electric meters. Mr. Desteffano said the electric meters recorded in 15 minute increments and uploaded every hour while water meters reported every four hours. Mr. Morehead questioned the accuracy of the electric meter which Mr. Desteffano said could be anywhere from less than 1% to 2%. Mr. Morehead asked if on the water side the 3% sample provided adequate data for the savings. Scott Layne, from SourceOne (consultant to the City) said almost 50% of the total flow through

the system was through the larger diameter meters (3" and up), and those were tested 100%.

Ms. Garriz presented an overview of the project financing, benefits, expenditures and cash flows over the next 15 years. The cost of the project was \$11.75 million which included \$11.5 million of the Honeywell contract and about \$253,000 of financed contingency. The project would be paid from the proceeds of the stimulus funding (\$2.85 million) and the Bank of America leased financing of \$8.9 million. The total debt service amount was \$13.9 million over 15 years which included financing of \$2 million over the next 15 years.

Project benefits showed a projected revenue increase over a 15 year project lifetime of \$25.8 million. The combined revenue and operational savings were projected to generate increased revenue and benefits of about \$25.8 million, and the benefits included increased revenues of about \$20 million for the increased meter accuracies guaranteed in the 100% incremental revenue from the 100% meter accuracy. It also included an incremental sewer revenue increase of about \$656,000 based on projected increased sewer flows and \$5.2 million of operational savings for cost avoidance or elimination of costs related to manual meter reads which included the elimination of 2.5 full-time meter readers and also savings on three vehicles and the elimination of one-half full-time equivalent customer service position. Other operational savings included savings on reconnect and disconnect costs, water meter repairs, rereads and air cards for the Police Department with the wireless mesh network. Ms. Garriz noted that the project was budget neutral which meant that the project paid for itself. The project benefits of \$25.8 million were estimated to exceed the project expenditures of \$21.9 million.

Project expenditures over the next 15 years totaled about \$21.9 million. Included in the project expenditures were debt service payments totaling \$13.9 million over the life of the project and included principal and interest payments. Project expenditures also included the Honeywell measurement and verification cost of close to \$1 million over 15 years. This could be revisited in the next three to five years of the project life, and the City could decide whether to go on with the M&V or cancel. If after five years this part of the contract was cancelled, the City would realize another savings of about \$700,000. Other costs totaling \$6.95 million was another part of project expenditures and included about \$3.4 million of incremental sewer costs to the County as a result of increased sewer flow. This was budgeted with a 3% escalation increase every year for the sewer account rate increase. It also included software licenses and support for new technology and other maintenance costs in the Water and Electric departments.

In the 15 year financial cash flow model three cash flow scenarios were presented with emphasis on the mid case scenario. This assumed the project would bring in \$2.8 million over the next 15 years in net cash flow. The assumption used for the cash flow was that all project benefits and expenditures would be realized and reduced that amount by a safety factor of 5%. The worst case scenario was extremely conservative and was based on the assumption that the revenue realized from this projection was derived from 98% meter accuracy. The best case scenario assumed all the revenue increase from the 100% meter accuracy with no safety factors.

Mr. Chapman asked how the worst case through best case percentiles and accuracy related to the Honeywell guarantee. Regarding the 98% guaranteed meter accuracy projected revenue increase, Mr. Layne explained that based on the testing, there was an existing population of about 10,000 water meters with an overall accuracy of 91.3%. When all those were replaced with new meters, Honeywell would guarantee that the overall meter accuracy was at least 98% and that was where their financial guarantee applied and protected the City from the risk.

Mr. Chapman asked for a better understanding about the safety factor. Mr. Layne referred to the Financial Cash Flow Model for 15 Year Guaranteed Savings Program spreadsheet. He explained that in the first two lines under Project Benefits – 98% guaranteed meter accuracy projected revenue increase of \$1,021,094 and the 100% meter accuracy projected revenue increase of \$287,502, a 5% safety factor was taken on those two numbers and that number was in the bottom row.

Mr. Athey asked why there was an increase in what the City would pay New Castle County. Ms. Houck said it was based on a 3% increase in what they were going to charge the City. Mr. Simonson said the bill to the County for sewer charges was based on our water consumption which we report to the County.

Mr. Athey asked for an explanation about the lease agreement. Ms. Peterson explained it was a tax exempt municipal lease which made it different from a loan. Mr. Layne added that municipal tax exempt leasing was the most common form of financing for these types of projects.

Mr. Markham referenced financing arrangements and asked if 100% of the savings would go to pay back the loan. Ms. Garriz replied that 100% of the savings would be used toward the loan because on the cash flow spread sheet that was the total debt service, so the City would still come out with a positive cash flow at the end of the total debt service for both. In response to Mr. Markham's question about a prepayment penalty, Ms. Houck responded there was no penalty for early payback. Mr. Markham questioned whether this debt would affect the City's bond rating. Ms. Garriz said it should not because bond ratings looked at the total City finances and not just a particular loan.

Mr. Morehead asked if there was a built in water rate increase. Mr. Layne confirmed that the new rates going into effect in July 2013 were reflected in 2014 and beyond, and there would be only one 5% increase over the 15 year period. If the water rates increased, based on bringing in an additional \$1 million of revenue, the costs were still reflective of the water flowing through the system which was more than what was being metered, so ultimately the budgets would catch up. Mr. Athey believed rates were being mixed with the margin (this assumed a constant margin) but in order to maintain that margin, a future Council might have to deal with rates again. Ms. Houck stated that the money from the increased accuracy and the O&M savings would be targeted to pay off this loan. However, if there were other needs within the water and electric utilities, they would stand on their own merit and Council would need to make decisions based on those costs for the margin.

It was verified to Mr. Clifton that the replacement water meters would be complete new units since he was concerned that if the vein and propeller were not replaced, the accuracy levels quoted by Honeywell would not be achieved.

Mr. Markham asked the actual cost of replacing the water meters. Mr. Layne said it was a little over \$5 million.

Mr. Markham said he wanted to make sure Honeywell would be around to guarantee the City's savings and asked if their contract contained any exits. Mr. Herron advised that the contract seemed to be in order. Mr. Lane emphasized that the City had to continue the measurement and verification contract in order for Honeywell's monetary guarantee to remain in effect. That contract required third party testing of the meters each year.

Mr. Chapman commented that the open house presentation promoted no increased cost for the project to residents and users and thought it was fair to say that there was no net increased cost to the City. However, on the end user there could be a cost increase in terms of water and sewer expenditures. Also, the presentation last week illustrated a project savings of over \$25 million, and he thought tonight's discussion clarified that was the gross and that the net savings

over a 15-year period was anywhere from a \$500,000 loss to a \$3.8 million net savings.

Mr. Chapman also stated that during the open house questions were raised regarding demand response controls and the City's ability to regulate how much energy was being distributed in a brown out or black out situation. The City's response was that although the system could have that capability, the current project did not include such a provision and would require coming back to Council for approval. Ms. Houck concurred that implementing a demand response system would require Council direction.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE RULES BE SUSPENDED AND THE DISCUSSION BE OPENED TO THE PUBLIC.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

Bill Pace, a Newark resident, appreciated the open house held on this proposal but did not feel the project should be considered self funding (as described by the City) since users could expect about a 7% increase in their water bills.

Eric Boye questioned the security on the Tropos routers. It was a secure network in the open spectrum but was licensed to Elster via the AMI technology and based on the design was not subject to interference.

There being no further comments forthcoming, the discussion was returned to the table.

Ms. Houck read the following recommendation into the record:

"In accordance with our continued and progressive involvement with Honeywell since 2009 and associated with earlier guaranteed performance contracting and facility energy audits and improvements the use of formal bidding was not practical per our Code and it is therefore recommended that Mayor and Council waive the requirement and authorize the City Manager to:

- Enter into a Smart Meter Guaranteed Performance Contract with Honeywell totaling \$11,495,735 in accordance with the guaranteed meter accuracy of \$1,021,094 a year to perform the scope of work presented above and in the full contractual documents as outlined on the following page and;
- Enter into a tax exempt lease purchase with Banc of America Public Capital Corp for the total cost of \$8,897,374 (which includes a financed contingency of \$253,574) at the interest rate of 2.2% in accordance with the terms outlined in the attached Project Financing spreadsheet updated this evening as final and the attached Authorizing Resolution also updated this evening for Banc of America."

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE RECOMMENDATION BE APPROVED AS PRESENTED AND THE ATTACHED AUTHORIZING RESOLUTION BE APPROVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.



**(RESOLUTION NO. 12-Y)**

**22. 5-B. SOLAR REQUEST FOR PROPOSALS McKEE'S PARK –  
REQUEST FOR AUTHORIZATION TO MOVE FORWARD**

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**02:06**

Ms. Houck reported that Scott Lynch of DEMEC put together the RFP being discussed. This would provide a turnkey solar generating system at McKee's Park. She added that when DNREC was contacted to make sure they still approved the site since it was a former landfill, they were pleased to learn the City might move forward with the project. Ms. Houck explained that DEMEC offered to finance and own the McKee's park system if the City developed it and then Newark would use various funding sources to repay them for financing the PV system. Once the financing was paid in full, DEMEC would turn over the ownership of the project to the City. The project would allow residents who might not have solar at their home to participate if it was funded through the mandatory green energy funds which were part of every utility bill. Ms. Houck requested Council's support to move forward and authorize DEMEC to issue the RFP on the City's behalf. Certain authorizations were needed including allowing Ms. Houck to temporarily implement a delayed grant program in the Green Energy Program. This meant giving preference to funding the community solar park instead of any forthcoming individual grant until payment was completed for the McKee's Park system. Council was also requested to provide support for the funding strategy as noted in the recommendation and direct Ms. Houck to proceed upon receipt of a successful RFP process.

Mr. Lynch provided clarification that the regulations Ms. Houck read were the City's own green energy rules – not the State's. This was a 200 KW (ac) capacity unit. It was based upon DEMEC's research on the previous RFP that Newark issued and review of the three submissions that Newark received. DEMEC did an analysis of the RFP's, saw what the property was capable of and looked for the best fit from their suggestions. Several additional options that would be in this RFP that were not in the previous RFP were:

- preferences looking at in-State manufacturers of solar panels and in-State labor versus out-of-state;
- comparing micro inverters (the small inverters that go behind each individual solar panel) versus a string inverter which was at the end of an array; and
- looking at a public education component for the local technical colleges and technical high schools by having the contractors bring those students in who could benefit from on-site experience while experiencing additional costs savings from that help.

According to Mr. Lynch, Hodgson High School has an agreement with the State that they will teach their students solar installation and Delaware Tech has an energy management program offered at the Dover, Georgetown and Stanton campuses.

Mr. Clifton asked whether there would be any technical skill sets needed once this was built. Mr. Lynch said there was a specific requirement in the RFP that within 10 days (or at their discretion) that the installation contractor would offer specific training to the City. In addition there would be two technical manuals for all parts, maintenance and safety.

Mr. Markham added that the only other discussion was whether to change the angle for winter and summer to improve the efficiency.

The Chair opened the discussion to the public.

Tom Fruehstorfer, Conservation Advisory Commission Chair, said the Commission had discussed similar initiatives for years and strongly endorsed an effort where Newark worked to generate its own green energy. They thought it made more sense for the City to invest in its own generation rather than sending

money to someone who does. They were disappointed when the last attempt to develop solar energy by the City failed and hoped to expand this to other locations in the future. CAC members recommended that Council approve the recommendation.

Catherine Sheedy, Conservation Advisory Commission member, reiterated Mr. Fruehstorfer's comments that the group supported this initiative and that part of the funding would come from monies the CAC recommended be used every year to buy sustainable energy through DEMEC. The CAC was pleased this funding would stay in the City and provide the community with something tangible.

There being no further comments forthcoming, the discussion was returned to the table.

Council unanimously agreed to authorize the City Manager to move forward with the Solar Request for Proposal for McKee's Park as outlined in Ms. Houck's memo to Council dated November 29, 2012.

**23. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

**A. Bill 12-40** - An Ordinance Amending Chapter 1, General Provisions, Code of the City of Newark, Delaware, to Reference New Position Titles and New Department Titles

**02:20**

Ms. Van Veen read Bill 12-40 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-40.

Mr. Zusag noted that obsolete organizational charts were revised to reflect the current organization.

Mr. Chapman asked if the reorganization helped to better align the budget expense line items to the revenue generation source where there seemed to be areas where the expense items were not obviously tied to their source of revenue. Mr. Zusag responded that such changes would occur in the 2013 budget when some employees were shifted to other departments.

The Chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned to the table

On the City of Newark Organizational Chart, Mr. Clifton suggested the correct form would be to add a top block above Mayor and City Council for "Residents of the City of Newark". Mr. Zusag will make the change.

AMENDMENT BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE CITY OF NEWARK ORGANIZATION CHART BE CHANGED TO REFLECT "RESIDENTS" ABOVE MAYOR AND CITY COUNCIL.

AMENDMENT PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

Question on the Motion as Amended was called.

MOTION AS AMENDED PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

**(ORDINANCE NO. 12-36)**

24. **6-B. BILL 12-41 – AN ORDINANCE AMENDING CHAPTER 1, GENERAL PROVISIONS, CODE OF THE CITY OF NEWARK, DELAWARE, TO INCLUDE A REFERENCE NAME CHANGE OF ELKTON ROAD BETWEEN WEST MAIN STREET AND WEST PARK PLACE TO SOUTH MAIN STREET.**
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**02:23**

Ms. Van Veen read Bill 12-41 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. CHAPMAN: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-41.

The Chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned to the table.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 1.

Aye – Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – Athey.

**(ORDINANCE NO. 12-37)**

25. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:**  
*None*

26. **8. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**  
A. **Council Members:**  
1. **Resolution 12-\_\_:** Commending Alice Liechty, Election Board Member

*(See Item #3)*

27. **8-B OTHERS:** None

28. **9. SPECIAL DEPARTMENTAL REPORTS:**  
A. Special Reports from Manager & Staff:  
1. Pension Plan and OPEB Trust Investment Reports  
Third Quarter Ended September 30, 2012

**02:24**

Mr. Zusag explained this was the third quarter report for both the pension plan and the OPEB trust. It was a good quarter for the City – the return on investment for the combined portfolio was almost 5% which was a positive development. Considerable progress was made in recovering some losses experienced in recent years.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO ACCEPT THE PENSION PLAN AND OPEB TRUST INVESTMENT REPORTS FOR THE THIRD QUARTER ENDED SEPTEMBER 30, 2012.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

29. Following the regular Council meeting that ended at 9:20 p.m., Council entered into Executive Session in accordance with Del. C. §10004(b). The seven day notice required by 29 Del. C. 10004(e)(2) could not be given which is why

this item was not placed on the addendum that was printed on December 7, 2012.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT COUNCIL ENTER INTO EXECUTIVE SESSION TO DISCUSS THE QUALIFICATIONS OF INDIVIDUAL CANDIDATES TO HOLD A JOB AND A PERSONNEL MATTER IN WHICH THE NAME, COMPETENCY AND ABILITY OF AN INDIVIDUAL EMPLOYEE WILL BE DISCUSSED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

Council returned to the table at 9:46 p.m.

As a result of the Executive Session, Mr. Funk advised that a motion from Council was required.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE DISABILITY PENSION BE APPROVED FOR ROBERT BEIGHLEY AS OUTLINED IN MR. ZUSAG'S MEMO TO COUNCIL DATED DECEMBER 5, 2012.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.  
Nay – 0.

**30. Meeting adjourned at 9:47 p.m.**

Alice Van Veen  
Deputy City Secretary